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PTO/SB/21 (04-07)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/840,188	
	Filing Date	May 05, 2004	
	First Named Inventor	Mark Mathis	
	Art Unit	3731	
	Examiner Name	NGUYEN, TUAN VAN	
Total Number of Pages in This Submission	5	Attorney Docket Number	10057-719.201

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Shay Law Group LLP		
Signature			
Printed name	Thomas Zlogar		
Date	8/2/07	Reg. No.	55,760

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Typed or printed name	Angelica Zuniga	Date	08/02/07

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Docket No.10057-719.201

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application: 10/840,188  
Inventors: Mark Mathis  
Filed: May 05, 2004  
Title: **DEVICE AND METHOD FOR  
MODIFYING THE SHAPE OF A BODY  
ORGAN**

Confirmation No.: 7264  
Examiner: NGUYEN, TUAN VAN  
Group Art Unit: 3731

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR § 1.97 & § 1.98**

Sir:

In accordance with 37 CFR § 1.97-1.98, applicants hereby submit an Information Disclosure Statement, including attached forms(s) PTO/SB/08. A copy of each reference is being submitted herewith, along with a concise explanation in English for those publications in a foreign language.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. Applicants further request that the Examiner initial and return a copy of the attached form(s) PTO/SB/08 in accordance with MPEP §609.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and /or to prove that this information may not be enabling for the teachings purportedly offered.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in 37 CFR §1.56.

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**FILING OF INFORMATION DISCLOSURE STATEMENT****37 CFR §1.97(b)**

This statement is being submitted under 37 CFR §1.97(b) because the IDS is being filed:

- ☐ 1). Within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d), or
- ☐ 2). Within 3 months of entry of a national stage as set forth in § 1.491, or
- ☒ 3). Before the mail date of a first Office Action on the merits, or
- ☐ 4). Before the mailing of a first Office Action after filing a request for continued examination under § 1.114.

**37 CFR § 1.97(c)**

This statement is being filed after the latest of:

- ☐ 1). Three months beyond the filing date of a national application, or
- ☐ 2). Three months beyond the date of entry of the national stage as set forth in § 1.491 in an international application, or
- ☐ 3). The mailing date of a first Office Action on the merits, but before the mailing date of the earlier of a final Office Action under § 1.113 or a Notice of Allowance under § 1.311, and then either:
- ☐ A). A fee of \$180.00 as set forth in § 1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement. or
- ☐ B). A certification as specified in § 1.97(e) is provided below; thus no fee is required.

**37 CFR § 1.97(d)**

This statement is being filed after the mailing date of a Final Office action, a Notice of Allowance under § 1.311, or an action that otherwise closes prosecution, but on or before payment of the issue fee, and then:

A). A fee of \$180.00 as set forth in § 1.17(p) is authorized below, enclosed, or payment is included with other papers filed together with this statement

—AND—

B). A certification as specified in § 1.97(e) is included below.

**CONTENT OF INFORMATION DISCLOSURE STATEMENT UNDER**  
**37 CFR § 1.98****37 CFR §1.98 (a)(2)(II), U.S. patents or patent application publication(s) cited**

- ☒ 1). Since not requested by the Office, U.S. patents and U.S. patent application publications are not included.
- ☐ 2). At the request of the Office, a copy of the following U.S. patent or patent application publication is attached:

**37 CFR §1.98 (a)(2)(iii) and (d), Pending unpublished U.S. applications cited**

- ☐ 1). A copy of each application specification including the claim(s)s, and any drawing of the application, or that portion of the application that caused it to be listed, including any claims directed to that portion, is attached.
- ☐ 2). A copy of each application specification is not submitted because the specification was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

**37 CFR §1.98 (a)(2)(iii) and (d), English language publication (other than U.S. patents, patent applications, or pending unpublished applications) cited**

- ☐ 1). A legible copy of each publication or that portion which caused it to be listed is attached.
- ☐ 2). A copy of each publication or that portion which caused it to be listed is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

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- ☐ 37 CFR §1.98 (a)(2)(i) and (d), Foreign patent(s) in English cited
- ☐ 1). A legible copy of each foreign patent is attached.
- ☐ 2). A copy of each foreign patent is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:
- ☐ 37 CFR §1.98 (a)(2)(i), (a)(3)(i-ii) and MPEP 609(B), Foreign patent(s) or other foreign documents not in English cited. Either:
- ☐ 1). A legible copy of each foreign patent, each publication or that portion which caused it to be listed, is attached --AND--
- ☐ 2a). A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56 (c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language is provided herewith:
- OR--
- ☐ 2b). A copy of a written, English-language translation or portion thereof is readily available and attached,
- OR--
- ☐ 2c). An English language copy of a foreign search report is submitted.
- OR--
- ☐ 3). A copy of each foreign patent is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

**STATEMENT UNDER 37 CFR § 1.97(e)**

- ☐ Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.
- ☐ No item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

**FEE AUTHORIZATION**

- ☒ The Commissioner is hereby authorized to charge the above-referenced fees of \$0.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-4050.

Respectfully Submitted,

By: 

Thomas Zlogar Reg. # 55760

Dated: 8/2/07  
Shay Law Group  
2755 Campus Drive, Suite 210  
San Mateo, CA 94403  
(650) 212-1700  
Customer No. 66854

